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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/643,076	08/19/2003	Toshiharu Ishida	116692004100	3052
25227	7590	05/12/2008	EXAMINER	
MORRISON & FOERSTER LLP			HAYLES, ASHFORD S	
1650 TYSONS BOULEVARD				
SUITE 400			ART UNIT	PAPER NUMBER
MCLEAN, VA 22102			3687	
			MAIL DATE	DELIVERY MODE
			05/12/2008	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/643,076	ISHIDA ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Ashford S. Hayles	3687	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on 25 February 2008.

2a) This action is **FINAL**.                    2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 1-15 is/are pending in the application.

4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5) Claim(s) \_\_\_\_\_ is/are allowed.

6) Claim(s) 1-15 is/are rejected.

7) Claim(s) \_\_\_\_\_ is/are objected to.

8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on 19 August 2003 is/are: a) accepted or b) objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All    b) Some \* c) None of:

1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) Notice of References Cited (PTO-892)

2) Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.

4) Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.

5) Notice of Informal Patent Application

6) Other: \_\_\_\_\_.

## DETAILED ACTION

1. Amendment received on February 25, 2008 has been acknowledged. Claims 1, 2, 5-7, 10-12 and 15 are currently amended. Therefore, claims 1-15 are pending.

### ***Response to Amendment***

Applicants amendments to claims are sufficient to overcome previous 35 USC 112 2nd rejections and have been respectfully withdrawn.

### ***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. **Claims 1-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kawashima et al. (#5,168,445) and further in view of Iida (#6,668,245)**

**As per claims 1, 6 and 11** Kawashima et al. discloses an inventory management method/apparatus/recording medium that calculates a supplement amount of inventory at a specific day (Column 1, lines 7-10 discusses the invention relates to a system of ordering goods at a retail shop and more particularly to an automatic ordering system suitable for ordering work and inventory control of goods distributed daily, See also Figure 1), wherein a computer comprises:

a step for calculating a first sales plan amount (See Figure 1, Sales Volume Predictor 3 and 11) from a standard day prior to said specific day based on sales performance data (See Figure 1, POS Data 11) that stores the sales performance, and sales plan data that stores the sales plan (Column 7, lines 47-48 discloses a step for

predicting or calculating a volume of sales for a period of time, where the Examiner is construing as calculating a sales plan);

a step for predicting a first inventory amount (See Figure 1, Ordering Amount Calculator 4) at said specific day based on said first sales plan amount (See Figure 1, Predictive Data 12), a second inventory amount (See Figure 1, Stock Data 13) at said standard day (Column 7, lines 48-52 discuss a condition diagnostic unit may calculate the amount of change of selling on the basis of the past contents of the POS data to automatically correct safety stock volume of the stock data) and warehousing amount from said standard day to said specific day (Column 7, lines 38-40 discusses a stock control system for controlling the stock volume by using bar-codes and the like via the stock data, where a person having ordinary skill in the art can apply bar code data to determine warehousing amount).

a step for predicting a second sales plan amount of the period from said specific day to through a number of following days required to deliver a merchandise, based on said first sales plan amount (Column 7, lines 64-68 discusses wherein ordering is done every day and delivery is received two days after an order date, a fixed period ordering mode may be adopted wherein ordering is done not every day but at an interval of a few days, the Examiner is construing that ordering merchandise to replace sold merchandise everyday is a form of predicting sales amount ), but fails to explicitly disclose a step for calculating a sales fluctuation range amount by multiplying said second sales plan amount by a predetermined fluctuation range ratio,

a step for calculating a lower limit inventory amount of said specific day based on said sales amount and said sales fluctuation range amount, and a step for calculating a

supplement amount based on inventory amount and lower limit inventory amount of said specific day.

Both Kawashima and Iida are in the same field of inventory management systems, Iida teaches a method of calculating a sales fluctuation range amount by multiplying said sales amount by a predetermined fluctuation range ratio (Column 3, lines 8-22 discuss the step of inputting and storing a sales number variation coefficient  $\beta$  of the merchandise X which is, the object for determining a reserving order number and a final order number thereof which primarily varies depending on strength of sales price (strength of low price impression) of the merchandise, the step of computing a second corrected standard sales number  $E \times \beta$  based on the sales number variation coefficient  $\beta$  and the first corrected standard sales number E for each individual day of the week and outputting the computed second corrected standard sales number  $E \times \beta$ ; the step of computing a reserving order number of the merchandise X for a concerned day of the week based on the second corrected standard sales number  $E \times \beta$  for each individual day of the week and the retrieved out-of stock safety coefficient a and outputting the computed reserving order number), Iida further teaches a step for calculating a lower limit inventory amount of said specific day based on said sales amount and said sales fluctuation range amount (See Figure 1, Step 17), and a step for calculating a supplement amount based on inventory amount and lower limit inventory amount of said specific day (See Figure 1, Step 18).

Therefore, from this teaching of Iida, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the inventory management system of Kawashima et al., to include a step for calculating a sales

fluctuation range amount, lower limit inventory amount, and supplement amount. The motivation to combine the inventory management system of Kawashima et al., and the method of determining reserving order and final order amount of Iida would have been to avoid out of stock issues and loss of money for a retailer.

**As per claims 2, 7, and 12,** Kawashima et al. discloses the inventory management method/apparatus/recording medium wherein said step for calculating the first sales plan amount comprises:

a step for calculating a sales performance ratio of each operating day based on said sales performance data (Column 4, lines 20-25 discuss a sales volumes which occurred previously on certain days, each being the same day of the week ex. Thursday, as that of the day for which the sales volume is predicted, i.e., the 28-th day, is averaged in respect of each item of goods);

a step for calculating an expected sales performance ratio of each operating day after the standard day (Column 4, lines 12-20 discuss a prediction is based on the assumption that the date the date named is the 26-th day of the month and goods ordered on the 26-th day are scheduled to be delivered two days later i.e., on the 28-th day, thereby predicting on the named 26-th day the volume of sales expected to occur on the 28-th day) based on said sales performance ratio of each operating day; and a step for calculating a sales plan amount until said specific day based on said expected sales performance ratio of each operating day after the standard day (Column 4, lines 14-19, refers to FIG. 5, sales volumes, generally indicated by 503, which previously occurred on certain days, each being the same day of the week, are

averaged in respect of an item of B chocolate. For example, the thus averaged predictive value is assumed to be "200").

**As per claims 3, 8, and 13,** Kawashima et al. discloses the inventory management method/apparatus/recording medium, wherein said warehousing amount is calculated based on said supplement amount of said standard day to the day before the specific day (Column 2, lines 41-46 discuss a method necessary to forecast or predict the volume of sales occurring before the delivery lead time and determine the amount of orders or ordered goods, by taking into account the volume of inventories at an ordering time point and the safe total stock which is set to prevent out-of-stock).

**As per claims 4, 9 and 14,** Kawashima et al. discloses the inventory management method/apparatus/recording medium, wherein said specific day is a day after the soonest day possible to supplement the inventory, when there is a new order (Column 2, lines 56-57 discuss a method that the ordering work is performed once every day in accordance with a daily ordering schedule and that ordered goods are delivered two days after an ordering day the day after tomorrow).

**As per claims 5, 10 and 15,** Kawashima et al. discloses the inventory management method/apparatus/recording medium wherein said computer further comprises a step for respectively calculating a retrospective day that goes back a period (Column 7, lines 48-52 discuss a method wherein the condition diagnostic unit may calculate the amount of change of selling on the basis of the past contents of the POS data to automatically correct safety stock volume of the stock data) which is required to deliver the merchandise from the factory, before a delivery day of each of one or more blanket orders, (Column 7, line 68 discuss a method where a fixed quantity ordering

mode may be adopted wherein the order amount is fixed, a blanket order is construed as a fixed quantity) and said step for calculating said lower limit inventory amount, (Column 8, lines 28-30 discuss where a selling status and stock status can automatically be diagnosed in respect of individual goods groups and individual goods, the Examiner is construing that the process of automatically diagnosing the selling and stock status, a person having ordinary skill in the art can derive a lower limit inventory amount) includes calculating with said sales fluctuation range and said second sales plan amount the lower limit inventory amount at said specific day (Column 8, lines 22-24 discuss the amount of change of selling of individual goods can automatically be reflected on the order amount), based on each order amount and said retrospective day of said one or more blanket orders (Column 8, lines 1-4 discuss a mode wherein the lead time is different for individual items of goods or individual seasons, where the lead time is construed as the retrospective day).

***Response to Arguments***

4. Applicant's arguments filed February 25, 2008 have been fully considered but they are not persuasive.

The applicant argues that: calculating a sales fluctuation range amount based on a period following the specific day upon which a supplemental amount of inventory is calculated as claimed. Rather, the cited portion of lida describes a coefficient calculation based on estimated and actual sales based on days prior to the day upon which an inventory calculation is made. However, lida further teaches the step of inputting and storing a sales number variation coefficient  $\beta$  of the merchandise X which is, the object for determining a reserving order number and a final order number thereof which

primarily varies depending on strength of sales price (strength of low price impression) of the merchandise, the step of computing a second corrected standard sales number  $E \times \beta$  based on the sales number variation coefficient  $\beta$  and the first corrected standard sales number  $E$  for each individual day of the week and outputting the computed second corrected standard sales number  $E \times \beta$ ; the step of computing a reserving order number of the merchandise  $X$  for a concerned day of the week based on the second corrected standard sales number  $E \times \beta$  for each individual day of the week and the retrieved out-of stock safety coefficient  $a$  and outputting the computed reserving order number (Col. 3, lines 8-23), thus calculating a reserving order amount for days following a concerned day of the week.

### ***Conclusion***

5. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ashford S. Hayles whose telephone number is 571-270-

5106. The examiner can normally be reached on Monday thru Thursday 8:30 to 4:00 Eastern Time.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Matthew Gart can be reached on (571) 272-3955. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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AH